For the Northern District of California

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIAM MOALEM,) No. C.06.05504 IW/ (DD)
Petitioner,) No. C 06-05594 JW (PR)
VS.) ORDER OF TRANSFER
TOM CAREY, Warden,)
Respondent.	
	,

Petitioner, a California prisoner incarcerated at California State Prison -Solano in Vacaville, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging a conviction obtained in the San Mateo County Superior Court in 1999. Prior to filing the instant petition, petitioner filed another petition in this district challenging the same conviction. See Moalem v. Runnels, No. 02-04142 JW (PR). That petition was dismissed because it failed to state a claim upon which relief could be granted.

A second or successive petition may not be filed in the district court unless the petitioner first obtains from the United States Court of Appeals an order

Order of Transfer

 $N:\ \ Pro-Se\ 5.18.2007\ \ 06-05594\ \ Moalem05594_successive.wpd$

authorizing the district court to consider the petition. <u>See</u> 28 U.S.C. §
2244(b)(3)(A). It appears that petitioner did seek such an order from the United
States Court of Appeals for the Ninth Circuit as a "motion for an order authorizing
the district court to consider this petition," filed as case number 05-80138. The
Ninth Circuit transferred the petition to this Court under Fed. R. App. P.22(a).
Unfortunately for petitioner, the transfer is not the equivalent of an authorization for
petitioner to file a second or successive petition under 28 U.S.C. § 2244(b)(3)(A).
Accordingly, in the interests of justice, the case is TRANSFERRED to the Ninth
Circuit for review pursuant to 28 U.S.C. § 2244(b)(3)(A).

The clerk shall terminate all pending motions as moot and close the file.

DATED: May 18, 2007

JAMES WARE United States District Judge